



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue, Suite 900
Seattle, Washington 98101-3140

OCT 17 2014

OFFICE OF
COMPLIANCE AND ENFORCEMENT

Reply To: OCE-133

Certified Mail – Return Receipt Requested

NOTICE OF VIOLATION and REQUEST FOR INFORMATION

Mr. Shannon Poe
President
American Mining Rights Association
4481 Fallbrook Road
Concord, California 94521

PMB #607
6386 Greeley Hill Rd.
Coulterville, California 95311

Re: July and August 2014 Suction Dredging Activity along the South Fork Clearwater River,
Hwy. 14, Mile Marker 39-40

Dear Mr. Poe:

This letter concerns an alleged violation of the Clean Water Act (CWA), 33 U.S.C. § 1251 *et seq.*, for the discharge of pollutants from a suction dredge owned and/or controlled by you into the South Fork Clearwater River without authorization under a National Pollutant Discharge Elimination System (NPDES) permit. By this letter, the U.S. Environmental Protection Agency (EPA) is providing you with notice of the alleged violation of the CWA and requesting additional information regarding those activities.

EPA received information that during July and August 2014, you and other members of the American Mining Rights Association (AMRA) conducted suction dredging activities within the South Fork Clearwater River, near Mile Marker 39-40, Hwy. 14. The South Fork Clearwater River is a water of the United States. Additionally, this section of the South Fork Clearwater River is listed as critical habitat for endangered species including bull trout, Chinook salmon, and steelhead and is listed as a CWA Section 303(d)-impaired water for sediment. Pursuant to Section 402 of the CWA, an individual must obtain an NPDES permit to discharge pollutants such as rock and sand from a suction dredge into a water of the United States. Our records indicate that you do not have an NPDES permit.

VIOLATION

The discharge of pollutants from a suction dredge into a water of the United States without authorization under an NPDES permit is a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a). Violations of the CWA may result in liability for statutory civil or administrative penalties. *See* 33 U.S.C. §§ 1319(d) and (g). Negligent or knowing violations of the CWA could subject the violator to criminal fines and/or imprisonment. *See* 33 U.S.C. § 1319(c).

INFORMATION REQUEST

In exercising its responsibilities under the CWA, EPA requests information from you. EPA is authorized to make this Information Request pursuant to CWA Section 308, 33 U.S.C. § 1318. EPA requires this information to evaluate whether you are in compliance with the CWA.

Your response to this Information Request must be postmarked within forty five (45) days of receipt of this letter. All responses must be submitted to the following addresses:

Original to: Eva DeMaria
U.S. Environmental Protection Agency
NPDES Compliance Unit
1200 Sixth Avenue, Suite 900 (OCE-133)
Seattle, WA 98101-1128

Copy to: John Cardwell
Idaho Department of Environmental Quality
1118 "F" Street
Lewiston, ID 83501

For each day that each dredge was operating on the South Fork Clearwater River in July and August 2014, provide:

- (1) the name(s) and address(es) of the owner(s) of the mining claim (if suction dredging was conducted on a mining claim);**
- (2) the name(s) and address(es) of the dredge owner(s) and operator(s);**
- (3) a map indicating the precise locations where suction dredge activities took place;**
- (4) size of dredge hose (e.g., 4", 6" etc.);**
- (5) engine horsepower;**
- (6) number of hours dredged;**
- (7) approximate amount of soil/fill moved in cubic yards;**
- (8) length in feet of downstream plume created by each dredge;**
- (9) ounces of gold collected; and**
- (10) any photographic and/or video documentation taken of the dredging activity.**

Your submission must be signed with the following certification:

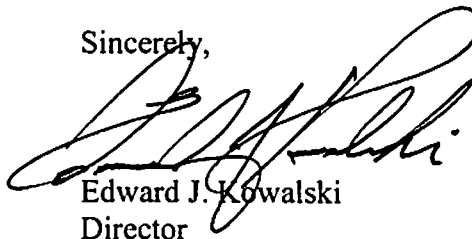
"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Failure to provide all the information requested, the failure to adequately explain the basis for such failure, or the making of any false material statement or representation in response to this Request for Information constitutes a violation of Section 308 of the Act, 33 U.S.C. § 1318, and may result in an enforcement action and the imposition of civil and/or criminal penalties or fines pursuant to Section 309 of the Act, 33 U.S.C. § 1319, and Title 18 of the United States Code, 18 U.S.C. § 1001.

Although the information requested must be submitted to EPA, you are entitled to assert a business confidentiality claim pursuant to the regulations set forth in 40 C.F.R. Part 2, Subpart B. If EPA determines the information you have designated meets the criteria in 40 C.F.R. § 2.208, the information will be disclosed only to the extent and by means of the procedures specified in Subpart B. Unless a confidentiality claim is asserted at the time the requested information is submitted, EPA may make the information available to the public without further notice to you.

If you have any questions regarding this letter or other matters related to your compliance with environmental laws, please contact Eva DeMaria, Compliance Officer, at (206) 553-1970. If you have any legal questions, please contact Endre Szalay, Assistant Regional Counsel, at (206) 553-1073.

Sincerely,



Edward J. Kowalski
Director

Via email: Mike Burgan, Army Corps of Engineers
Ken Clark, Nez Perce Tribe
Clint Hughes, Nez Perce-Clearwater National Forest
Dave Mabe, National Marine Fisheries Service
Mark Robertson, Fish and Wildlife Service

1. Information Request/TSCA Subpoena*

Case Name: American Mining Rights Association/Shannon Poe

City/State: Concord, CA

Title:	Compliance Officer	Program Unit Manager	ORC Attorney	ORC Unit Manager (TSCA Subpoena Only)
Name:	DeMaria	KenKnight	Szalay	
Initials:	gdk	JK	ES	
Date:	10/1/2014	10/16/14	10/14/14	

If document is included, check YES. If not, check NO and explain.

YES NO EXPLAIN

Document for signature/concurrence

☒ ☐

Cover letter

☐ ☒ None needed.

Communication plan

☒ ☐ Public Affairs to develop alternative as needed

Is this facility located in Indian country and/or a Tribal facility (i.e., owned or controlled by a federally recognized Indian tribe)?

☐ YES ☒ NO

Does this action potentially affect Tribal interests?

☒ YES ☐ NO

If YES, fill out and attach Addendum A: Enforcement Actions Involving Indian Tribes.

RETURN package to COMPLIANCE OFFICER for mailing.

* For documents to be signed by an OCE manager, attach a completed OCE Correspondence Action Request to this checklist.

Addendum A: Enforcement Actions Involving Indian Tribes¹

Title:	OCE Tribal Specialist
Name:	Dossett KenKnight
Initials:	
Date:	

Case Name: American Mining Rights Association/Shannon Poe

City/State/Tribes(s): Elk City, ID/Nez Perce

Is this a Tribal facility²? ☐ YES ☒ NO

Is this facility located in Indian Country³? ☒ YES ☐ NO

If YES, identify Reservation or Indian Country UAA I think (website is down)

Does this action potentially affect Tribal interests?⁴ ☒ YES ☐ NO

Has the Tribal government been notified or consulted about this action? ☒ YES ☒ NO

If NO, why not? They will be cc'ed on this letter

If YES, on what date? Click here to enter a date.

Who was notified at the Tribe? (name and position) Ken Clark

Method of notification/communication? NA

NOTE: OECA concurrence is needed before initiating any formal enforcement action against a Tribal facility, including, but not limited to, issuing a unilateral administrative complaint, order, or citation (including field citations), or referring any enforcement matter to the Department of Justice.

According to OECA's guidance on enforcement involving Indian tribes (1/17/01), OECA concurrence is not needed for administrative consent orders, a consent agreement and final order (CAFO), filing an administrative complaint simultaneously with an administrative consent order, or informal enforcement actions such as warning letters, notices of noncompliance, and notices of violation.

¹ "Indian Tribes" means Tribal entities recognized by the Department of the Interior as Indian Tribes eligible for funding and services from the Bureau of Indian Affairs, according to a list published, and periodically updated, in the Federal Register.

² "Tribal facility" means (1) a facility owned or managed by the government of a federally recognized Indian tribe, and (2) a facility not owned by an Indian tribe but in which a Tribal government has a substantial proprietary interest or over which a Tribal government has control.

³ "Indian country" is defined under 18 U.S.C. § 1151 as: (a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States, whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. Under this definition, EPA treats as reservations trust lands validly set aside for the use of a Tribe, even if the trust lands have not formally been designated as a reservation.

⁴ For questions about, or assistance with, determining if this action potentially affects Tribal interests, contact JR Herbst, EPA Region 10's Tribal Consultation Specialist in the Office of Ecosystems, Tribal and Public Affairs, at Herbst.John@epa.gov, 206-553-2116.

Communication/Action Plan

Action Summary:

Respondent:	American Mining Rights Association/Shannon Poe
Type of Action:	308/NOV
EPA Signatories:	Ed Kowalski
EPA Concurrence:	DeMaria, KenKnight, Szalay

308/NOV: *DeMaria*

Email to: Shannon Poe, AMRA President
Email Cc: kenc@nezperce.org, cehughes02@fs.fed.us, david.mabe@noaa.gov, mark_robertson@fws.gov, michael.a.burgan@usace.army.mil
Bcc: Ed Kowalski, Jim Wertz, Endre Szalay, Tracy DeGering, Jim Zokan
Email forwarded to: wrunnoe@blm.gov, wendy.olson@usdoj.gov, jhayes@idahoconservation.org, jfoss@blm.gov, pditton@blm.gov, czwang@blm.gov, buck@snakeriverwaterkeeper.com, scott.hauser@usrtf.org, shoban, critfc.org

Tribal Notice: *DeMaria*

After the OTC is sent, a letter will be sent to: NA

Press Release: *Mark MacIntyre*

Email to:

State Notice: *NA*

Hardy copy to:

Email to:

Congressional: *NA*

[As applicable]

Internal Contacts: *DeMaria*

When the respondent has/not responded, an e-mail will be sent to: Szalay, KenKnight, Kowalski, Wertz

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Shannon Poe
 President
 American Mining Rights Association
 4481 Fallbrook Road
 Concord, CA 94521

 2. Article Number
 (Transfer from service label)

7013 1710 0002 3980 4158

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

- ☐ Agent
☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

 D. Is delivery address different from item 1? ☐ Yes
 If YES, enter delivery address below: ☐ No

3. Service Type

- ☒ Certified Mail ☐ Express Mail
☐ Registered ☒ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

UNITED STATES POSTAL SERVICE



First-Class Mail
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 Permit No. G-10

• Sender: Please print your name, address, and ZIP+4 in this box •

Eva DeMaria
 USEPA Region 10
 1200 Sixth Avenue, Suite 900
 Mail Stop: OCE-133
 Seattle, WA 98101

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 Restricted Delivery Fee
 (Endorsement Required)

Total

Mr. Shannon Poe
 President
 American Mining Rights Association
 4481 Fallbrook Road
 Concord, CA 94521

Sent To
 Street,
 or P.O. B.
 City, Sta

 Postmark
 Here

PS Form 3800, August 2006

See Reverse for Instructions

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- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr. Shannon Poe
President
American Mining Rights Association
PMB #607
6386 Greeley Hill Road
Coulterville, CA 95311

2. Article Number

(Transfer from service label)

7013 1710 0002 3980 4165

PS Form 3811, July 2013

Domestic Return Receipt

UNITED STATES POSTAL SERVICE

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☒ Addressee

B. Received by (Printed Name)

S. POE

C. Date of Delivery

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail®☐ Priority Mail Express™☐ Registered☒ Return Receipt for Merchandise☐ Insured Mail☐ Collect on Delivery

4. Restricted Delivery? (Extra Fee)

☐ Yes

First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

• Sender: Please print your name, address, and ZIP+4® in this box•

Eva DeMaria
USEPA Region 10
1200 Sixth Avenue, Suite 900
Mail Stop: OCE-133
Seattle, WA 98101

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or PO Box
City, State, ZIP+4®

Mr. Shannon Poe
President
American Mining Rights Association
PMB #607
6386 Greeley Hill Road
Coulterville, CA 95311

Postmark
Here

PS Form 3800, August 2006

See Reverse for Instructions